

SENATE BILL NO. 2185

Introduced by

Senators Oehlke, Burckhard, Robinson

Representatives Mock, Hofstad

1 A BILL ~~for an Act to create and enact seven new sections to chapter 43-52 of the North Dakota~~
2 ~~Century Code, relating to regulation of sign language interpreters; to amend and reenact~~
3 ~~sections 43-52-01, 43-52-02, and 43-52-03 of the North Dakota Century Code, relating to~~
4 ~~regulation of sign language interpreters; and to provide a penalty.~~for an Act to create a new
5 section to chapter 43-52 of the North Dakota Century Code, relating to the regulation of sign
6 language interpreters; to amend and reenact sections 43-52-01, 43-52-02, and 43-52-03 of the
7 North Dakota Century Code, relating to regulation of sign language interpreters; to provide a
8 penalty; and to provide an effective date.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** ~~Section 43-52-01 of the North Dakota Century Code is~~
11 ~~amended and reenacted as follows:~~

12 ~~— 43-52-01. Definitions.~~

13 ~~— As used in this chapter, unless the context otherwise requires:~~

14 ~~— 1. "Board" means the interpreter licensure board.~~

15 ~~— 2. "Consumer" means an individual who is deaf, deaf-blind, speech-impaired,~~
16 ~~hard-of-hearing, or who requires special communication techniques in order to~~
17 ~~communicate.~~

18 ~~— 2.3. "Interpreter" means an individual who engages in the practice of interpreting.~~

19 ~~— 3.4. "Interpreting" means the translating or transliterating of English concepts to any~~
20 ~~necessary specialized vocabulary used by a consumer or translating of a consumer's~~
21 ~~specialized vocabulary to English concepts. Necessary specialized vocabularies~~
22 ~~include American sign language, English-based sign language, and oral interpreting.~~

23 ~~— 4.5. "Nationally recognized certification" means certification granted by a board-approved~~
24 ~~national organization that~~which ~~is based on a skills assessment of the applicant.~~

1 These organizations may include the registry of interpreters for the deaf and the
2 national association of the deaf.

3 ~~6. "Video remote interpreting" is a process that allows an individual who is deaf or~~
4 ~~hard-of-hearing to communicate with a hearing individual at the same location through~~
5 ~~an interpreter displayed via videoconferencing equipment or through a television with~~
6 ~~a videophone.~~

7 ~~**SECTION 2.** A new section to chapter 43-52 of the North Dakota Century Code is created~~
8 ~~and enacted as follows:~~

9 ~~**Interpreter licensure board.**~~

10 ~~1. The governor shall appoint the five members of the interpreter licensure board, which~~
11 ~~consists of one member who represents a statewide organization that advocates for~~
12 ~~the deaf and hard-of-hearing, such as the North Dakota association of the deaf; three~~
13 ~~members who hold a nationally recognized certification and who represent a statewide~~
14 ~~organization that represents interpreters for the deaf, such as the North Dakota~~
15 ~~registry of interpreters for the deaf; and a representative of the department of human~~
16 ~~services.~~

17 ~~2. Except for the initial members who may serve shorter terms in order to initiate the~~
18 ~~staggered terms, the term of the board members is three years and until a successor~~
19 ~~is appointed and qualified. The terms must be arranged so no more than two terms~~
20 ~~expire on July thirty-first of each year. The governor may remove a member for good~~
21 ~~cause.~~

22 ~~3. A member of the board, except for the member representing the department of human~~
23 ~~services, is entitled to receive for each day during which the member is actually~~
24 ~~engaged in the performance of the duties of the board such per diem as fixed by the~~
25 ~~board and each member of the board is entitled to receive reimbursement for mileage~~
26 ~~as provided under section 54-06-09 and is entitled to reimbursement for the member's~~
27 ~~actual and necessary expenses incurred in the discharge of the member's official~~
28 ~~duties.~~

29 ~~**SECTION 3.** A new section to chapter 43-52 of the North Dakota Century Code is created~~
30 ~~and enacted as follows:~~

1 ~~— **Board powers and duties.**~~

2 ~~— 1. The board may:~~

3 ~~— a. Manage and provide interpreter mentoring and professional training.~~

4 ~~— b. Educate licensees and members of the public regarding interpreter laws.~~

5 ~~— 2. The board shall:~~

6 ~~— a. Accept applications for licensure under this chapter; evaluate the qualifications of~~
7 ~~applicants; issue licenses to qualified applicants; annually renew licenses; and~~
8 ~~take disciplinary actions against licensees as appropriate.~~

9 ~~— b. Maintain, publish, and make available upon request a list of all interpreters~~
10 ~~licensed under this chapter, including information regarding the licensees'~~
11 ~~respective levels of licensure.~~

12 ~~— c. Adopt laws as necessary to implement this chapter.~~

13 ~~— **SECTION 4. AMENDMENT.** Section 43-52-02 of the North Dakota Century Code is~~
14 ~~amended and reenacted as follows:~~

15 ~~— **43-52-02. Practice of interpreting – Representation to the public.**~~

16 ~~— An~~

17 ~~— 1. Effective until December 31, 2011, an individual may not practice or represent as an~~
18 ~~interpreter for deaf, deaf-blind, speech-impaired, or hard-of-hearing individuals in the~~
19 ~~state unless the individual holds a valid nationally recognized certification. However,~~
20 ~~an individual who was practicing as an interpreter in this state before August 1, 2001,~~
21 ~~has until July 31, 2003, to meet the certification requirement under this section.~~

22 ~~— 2. Effective January 1, 2012, through December 31, 2013, an individual may not practice~~
23 ~~or represent as an interpreter for deaf, deaf-blind, speech-impaired, or hard-of-hearing~~
24 ~~individuals in the state unless the individual:~~

25 ~~— a. Holds a valid nationally recognized certification;~~

26 ~~— b. Is licensed under this chapter; or~~

27 ~~— c. Holds a provisional certificate issued by the board under this chapter.~~

28 ~~— 3. Effective January 1, 2014, an individual may not practice or represent as an interpreter~~
29 ~~for deaf, deaf-blind, speech-impaired, or hard-of-hearing individuals in the state unless~~
30 ~~licensed as an interpreter under this chapter or holds a provisional certificate issued by~~
31 ~~the board under this chapter.~~

1 ~~4. Effective January 1, 2012, a person may not use the title "licensed interpreter for the~~
2 ~~deaf", "licensed translator for the deaf", or any similar title or abbreviation to indicate~~
3 ~~the person is a licensed interpreter unless the person is licensed under this chapter.~~

4 ~~**SECTION 5. AMENDMENT.** Section 43-52-03 of the North Dakota Century Code is~~
5 ~~amended and reenacted as follows:~~

6 ~~**43-52-03. Exceptions.**~~

7 ~~This chapter does not prevent or restrict:~~

8 ~~1. A nonresident interpreter working in this state not more than nineteen days per year.~~

9 ~~2. An interpreter working at a religious activity.~~

10 ~~3. An interpreter working as a volunteer without compensation.~~

11 ~~4. An interpreter working in an emergency. An emergency is a situation in which the~~
12 ~~consumer decides that the length of time needed to obtain a licensed interpreter is~~
13 ~~likely to cause injury or loss to the consumer.~~

14 ~~5. The activities and services of an interpreter intern or student in training enrolled in a~~
15 ~~program of study in interpreting at an accredited institution of higher learning;~~
16 ~~interpreting under the supervision of a licensed interpreter as part of a supervised~~
17 ~~program; and identified as an interpreter intern or student in training.~~

18 ~~6. An individual using sign language or a manual communication system as a means of~~
19 ~~communication with or on behalf of a family member, a deaf individual, a deaf-blind~~
20 ~~individual, a speech-impaired individual, or hard-of-hearing individual who has~~
21 ~~specifically requested that use by that individual.~~

22 ~~7. A communication made as a reasonable accommodation for the employment of a~~
23 ~~deaf, deaf-blind, speech-impaired, or hard-of-hearing individual.~~

24 ~~8. A communication with a deaf, deaf-blind, speech-impaired, or hard-of-hearing~~
25 ~~individual who could not communicate using American sign language or English-based~~
26 ~~sign language.~~

27 ~~9. An individual working in an elementary or secondary school who has successfully~~
28 ~~completed a three-year educational interpreter certificate program of study or who has~~
29 ~~passed the educational interpreter performance assessment at a level of 3.5 or higher.~~
30 ~~The individual may work in the school setting without national certification until~~
31 ~~August 1, 2005, if the individual is being mentored by a trained mentor who is either a~~

1 certified interpreter or a deaf adult. To continue working in the school setting after
2 August 1, 2005, the individual must have obtained national certification.

3 ~~10. An individual who has successfully completed an accredited interpreter training
4 program from interpreting without certification for a period of up to two years from the
5 date of completion of the program if, during that period, the individual is mentored by a
6 trained mentor who is either a certified interpreter or a deaf adult. This exemption
7 applies through December 31, 2013, after which time the exemption does not apply.~~

8 ~~**SECTION 6.** A new section to chapter 43-52 of the North Dakota Century Code is created
9 and enacted as follows:~~

10 ~~**Application for licensure.**~~

11 ~~1. An applicant for licensure shall file an application with the board on forms established
12 by the board and submit the required fees.~~

13 ~~2. Effective January 1, 2012, the board shall issue an initial license to an applicant who
14 meets one of the following requirements:~~

15 ~~a. Holds an assessment certification at a board-established level from a
16 board-approved organization, such as the educational interpreter performance
17 assessment;~~

18 ~~b. Holds a valid interpreter or transliterator certificate issued by a board-approved
19 national membership organization representing the professionals who facilitate
20 communication between people who are deaf or hard-of-hearing and people who
21 can hear, such as the registry of interpreters for the deaf;~~

22 ~~c. Holds a board-approved state license or certification or holds a nationally
23 recognized certification; or~~

24 ~~d. Completed a board-approved provisional license period during which the
25 educational plan was successfully completed.~~

26 ~~3. Effective January 1, 2012, the board shall issue a provisional license to an applicant
27 who does not meet the requirements of subsection 2 if the applicant meets the board's
28 provisional license qualifications. During the provisional period, the provisional
29 licensee shall develop and implement a board-approved education plan in
30 collaboration with a board-approved mentor. A provisional license is valid for twelve
31 months and may be renewed once. The board may grant a second renewal of a~~

1 ~~provisional license if the applicant is able to establish good cause as determined by~~
2 ~~the board.~~

3 — **SECTION 7.** A new section to chapter 43-52 of the North Dakota Century Code is created
4 and enacted as follows:

5 — **License renewal - Fees.**

6 — ~~1. The board shall establish an application fee, which may not exceed fifty dollars; a~~
7 ~~license fee, which may not exceed one hundred dollars; a renewal fee, which may not~~
8 ~~exceed one hundred dollars; and a late fee.~~

9 — ~~2. A license issued under this chapter is subject to annual renewal and expires January~~
10 ~~first unless renewed in the manner prescribed by rules of the board. The board may~~
11 ~~provide for the late renewal of a license upon the payment of a late fee, but late~~
12 ~~renewal of a license may not be granted more than thirty days following expiration of~~
13 ~~the license. If a licensee fails to renew a license within thirty days of expiration, the~~
14 ~~licensee is subject to reapplication.~~

15 — **SECTION 8.** A new section to chapter 43-52 of the North Dakota Century Code is created
16 and enacted as follows:

17 — **Video remote interpreting - Registration.**

18 — ~~1. A person may not provide video remote interpreting services in this state unless~~
19 ~~registered with the board under this section. Annually, a video remote interpreting~~
20 ~~service shall register with the board on forms established by the board and shall~~
21 ~~submit the required fees.~~

22 — ~~2. The registration fees under this section are:~~

23 — ~~a. For an employer of fewer than six interpreters, one hundred dollars;~~

24 — ~~b. For an employer of more than five but fewer than eleven interpreters, three~~
25 ~~hundred dollars; and~~

26 — ~~c. For an employer of more than ten interpreters, five hundred dollars.~~

27 — **SECTION 9.** A new section to chapter 43-52 of the North Dakota Century Code is created
28 and enacted as follows:

29 — **Disciplinary proceedings - Civil penalty.**

30 — ~~1. The board may deny, revoke, suspend, or place on probation the license of an~~
31 ~~interpreter for any of the following grounds:~~

- 1 ~~a. The licensee is guilty of fraud in the practice of interpreting or of fraud or deceit in~~
2 ~~admission to the practice of interpreting.~~
- 3 ~~b. The licensee has been convicted of an offense determined by the board to have~~
4 ~~a direct bearing upon the licensee's ability to serve the public as an interpreter.~~
- 5 ~~c. The licensee is guilty of untrue, fraudulent, misleading, or deceptive advertising.~~
- 6 ~~d. The licensee is guilty of willful negligence in the practice of interpreting.~~
- 7 ~~e. The licensee is guilty of violating this chapter or any rule adopted by the board.~~
- 8 ~~2. A complaint may be submitted to the board by any person or on the board's own~~
9 ~~motion. A complaint must be signed by the complainant and verified under oath.~~
- 10 ~~3. The board may impose a civil penalty not exceeding two hundred dollars for each~~
11 ~~violation of this chapter, in order to deprive the person of any economic advantage~~
12 ~~gained by the violation or to reimburse the board for attorney's fees and the cost of the~~
13 ~~investigation and proceeding.~~

14 ~~**SECTION 10.** A new section to chapter 43-52 of the North Dakota Century Code is created~~
15 ~~and enacted as follows:~~

16 ~~**Penalty - Civil penalty.**~~

17 ~~Any person who violates this chapter is guilty of a class B misdemeanor. In addition to the~~
18 ~~criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin a~~
19 ~~violation of this chapter without proof of actual damages sustained by any person.~~

20 **SECTION 1. AMENDMENT.** Section 43-52-01 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-52-01. Definitions.**

23 As used in this chapter, unless the context otherwise requires:

- 24 1. "Consumer" means an individual who is deaf, deaf-blind, speech-impaired,
25 hard-of-hearing, or who requires special communication techniques in order to
26 communicate.
- 27 2. "Interpreter" means an individual who engages in the practice of interpreting.
- 28 3. "Interpreting" means the translating or transliterating of English concepts to any
29 necessary specialized vocabulary used by a consumer or translating of a consumer's
30 specialized vocabulary to English concepts. Necessary specialized vocabularies
31 include American sign language, English-based sign language, and oral interpreting.

1 4. "Nationally recognized certification" means certification granted by a national
2 organization that is based on a skills assessment of the applicant. These organizations
3 include the registry of interpreters for the deaf and the national association of the deaf.

4 5. "Video remote interpreting" is a process that allows an individual who is deaf or
5 hard-of-hearing to communicate with a hearing individual at the same location through
6 an interpreter displayed via videoconferencing equipment or through a television with
7 a videophone.

8 **SECTION 2. AMENDMENT.** Section 43-52-02 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-52-02. Practice of interpreting.**

11 An individual may not practice or represent as an interpreter for deaf, deaf-blind,
12 speech-impaired, or hard-of-hearing individuals in the state unless the individual holds a valid
13 nationally recognized certification. ~~However, an individual who was practicing as an interpreter~~
14 ~~in this state before August 1, 2001, has until July 31, 2003, to meet the certification requirement~~
15 ~~under this section.~~ A person may not provide video remote interpreting services in this state
16 unless certified under this chapter.

17 **SECTION 3. AMENDMENT.** Section 43-52-03 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **43-52-03. Exceptions.**

20 This chapter does not prevent or restrict:

- 21 1. A nonresident interpreter working in this state not more than nineteen days per year.
- 22 2. An interpreter working at a religious activity.
- 23 3. An interpreter working as a volunteer without compensation.
- 24 4. An interpreter working in an emergency. An emergency is a situation in which the
25 consumer decides that the length of time needed to obtain a licensed interpreter is
26 likely to cause injury or loss to the consumer.
- 27 5. The activities and services of an interpreter intern or student-in-training enrolled in a
28 program of study in interpreting at an accredited institution of higher learning;
29 interpreting under the supervision of a licensed interpreter as part of a supervised
30 program; and identified as an interpreter intern or student-in-training.

- 1 6. An individual using sign language or a manual communication system as a means of
- 2 communication with or on behalf of a family member, a deaf individual, a deaf-blind
- 3 individual, a speech-impaired individual, or hard-of-hearing individual who has
- 4 specifically requested that use by that individual.
- 5 7. A communication made as a reasonable accommodation for the employment of a
- 6 deaf, deaf-blind, speech-impaired, or hard-of-hearing individual.
- 7 8. A communication with a deaf, deaf-blind, speech-impaired, or hard-of-hearing
- 8 individual who could not communicate using American sign language or English-based
- 9 sign language.
- 10 9. An individual working in an elementary or secondary school who has successfully
- 11 completed a three-year educational interpreter certificate program of study or who has
- 12 passed the educational interpreter performance assessment at a level of 3.5 or higher.
- 13 ~~The individual may work in the school setting without national certification until~~
- 14 ~~August 1, 2005, if the individual is being mentored by a trained mentor who is either a~~
- 15 ~~certified interpreter or a deaf adult. To continue working in the school setting after~~
- 16 ~~August 1, 2005, the individual must have obtained national certification.~~
- 17 ~~10. An individual who has successfully completed an accredited interpreter training~~
- 18 ~~program from interpreting without certification for a period of up to two years from the~~
- 19 ~~date of completion of the program if, during that period, the individual is mentored by a~~
- 20 ~~trained mentor who is either a certified interpreter or a deaf adult.~~

21 **SECTION 4.** A new section to chapter 43-52 of the North Dakota Century Code is created
22 and enacted as follows:

23 **Penalty - Civil penalty.**

24 Any person who violates this chapter is guilty of a class B misdemeanor. In addition to the
25 criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin a
26 violation of this chapter without proof of actual damages sustained by any person.

27 **SECTION 5. EFFECTIVE DATE.** Section 3 of this Act becomes effective on January 1,
28 2014.